

Chapter 75 VACATION OF STREETS, ALLEYS, PLATS AND EASEMENTS

Sec. 75-1. Power to vacate streets and public places; approval of city plan commission.

Sec. 75-2. Petition to vacate.

Sec. 75-3. Notice.

Sec. 75-4. Consent required.

Sec. 75-5. Two-thirds vote of council required.

Sec. 75-6. Ordinance to be acknowledged.

Sec. 75-7. Vacation may be conditional.

Sec. 75-8. Vacation by plat.

Sec. 75-9. Deposit and fees for vacation of street or public place.

Sec. 75-10. Deposit receipts; disposition of deposit.

Sec. 75-11. Payments from vacation fund; return of excess money to depositor.

Sec. 75-12. Release of easements; fees.

Sec. 75-1. Power to vacate streets and public places; approval of city plan commission.

(a)

The city shall have exclusive control of all its public highways, streets, alleys, boulevards, parkways and public places ~~es~~, and shall have exclusive power to vacate or abandon any public highway, street, alley or public place, or any part thereof, and to vacate any platted addition or subdivision of land or part thereof within the corporate boundaries of the city; provided, that no such vacation or abandonment shall take place except by ordinance; and provided further, that no such ordinance shall be passed or take effect unless and until the recommendation of the city plan commission, approving or disapproving such ordinance, shall have been given to the council.

(b)

The Council may approve a vacation only if it determines that:

(1)

No private rights will be unreasonably injured or endangered by the vacation;
and

(2)

The public will suffer no unreasonable loss or inconvenience thereby.

(Ord. No. 070265, § 2, 3-15-07)

Sec. 75-2. Petition to vacate.

Any person or corporation owning any property fronting or abutting on any public highway, street, avenue, alley or public place or part thereof, proposed to be vacated, may petition the council therefor. Such petition must give a correct description of the part of the public highway, street, avenue, alley or public place sought to be vacated and also the names of the persons or corporations owning or claiming the property fronting thereon, and be verified by affidavit. The owner or owners of any lot in any platted addition or subdivision within the corporate boundaries of the city may petition the council for the vacation of the said platted addition or subdivision or any part thereof. Said petitioner must give a correct description of the part of the addition or subdivision to be vacated, and also the names of all legal owners of all lots contained in such addition or subdivision or part thereof to be vacated, and be verified by affidavit. The person or corporation seeking such vacation shall, at the time of filing the petition for vacation, deposit with the city a sum sufficient, in the opinion of such director, to cover all costs and expenses which the city may incur by reason of said proceedings. [No petition is required for a City-initiated vacation.](#)

(Ord. No. 070265, § 2, 3-15-07)

Sec. 75-3. ~~Notice~~ [City Plan Commission Hearing.](#)

(a) [The City Plan Commission will hear the application for vacation and make a recommendation to the City Council thereon; provided, however, that the vacation of any unimproved right of way which is not part of the major street plan and which is not used for access to any property has never been improved will not require a hearing or recommendation of the commission.](#)

~~*Publication.* Notice of any hearing before the city plan commission or any Council committee on the proposed vacation shall be given by publishing a notice setting forth the general purpose of such hearing and a general description of the location of the property to be vacated and the time and place of the hearing. The notice shall be published in a newspaper of general circulation at least 15 days before the date set for such hearing.~~

~~(b)(b)~~

~~*Mailed notice.* Notice [of the City Plan Commission hearing](#) shall ~~also~~ be mailed by United States mail, first class, to any property owner within the subject site and within 185 feet of the subject site. The notice shall be mailed not less than 13 days before the date set for such hearing. The names of property owners shall be determined as the owners of records according to the records of the city.~~

~~(c)~~

~~*Continuances.* If any hearing is continued to a definite date, no further notice shall be required.~~

(Ord. No. 070265, § 2, 3-15-07)

Sec. 75-4. Consent required.

~~No such ordinance shall be passed unless~~ The petitioner for vacation shall provide with the petition the consent, in writing, of the persons or corporations owning $\frac{3}{4}$ of the front feet of the property fronting on that part of the public highway, street, avenue, alley or public place proposed to be vacated, or of the legal owners of all lots contained in such addition or subdivision so proposed to be vacated, acknowledged as deeds conveying real estate in this state are required to be acknowledged in order to entitle them to be recorded, shall have been obtained to such vacation, and filed with said petition in the city clerk's office. No consent is required for a City-initiated vacation, but the department requesting the vacation shall provide -notice of the request , by mail, to each adjoining property owner and any registered neighborhood organization and/or registered civic organization, the boundaries of which include the right of way to be vacated, at least 13 days prior to any City Council committee hearing on the vacation ordinance.:

(Ord. No. 070265, § 2, 3-15-07)

Sec. 75-5. Two-thirds vote of council required.

No ordinance vacating any public highway, street, alley, public place or platted addition or subdivision, or part thereof, shall be passed except by at least a 2/3 affirmative vote of the full authorized membership of the council, except as provided for in section 75-8.

(Ord. No. 070265, § 2, 3-15-07)

Sec. 75-6. Ordinance to be acknowledged.

Every ordinance vacating any public highway, street, alley, public place, or platted addition or subdivision or part thereof, shall be acknowledged by the city clerk as deeds are acknowledged ~~as aforesaid~~, and such ordinance so acknowledged ~~and~~ shall be filed for record in the office of the recorder of deeds in the county or counties in which the vacation is located.

(Ord. No. 070265, § 2, 3-15-07)

Sec. 75-7. Vacation may be conditional.

The council may provide in any ordinance for vacating any highway, street, alley, public place or plat any conditions it deems appropriate and may reserve any appropriate easements.

(Ord. No. 070265, § 2, 3-15-07)

Sec. 75-8. Vacation by plat.

An ordinance approving a final plat may simultaneously vacate rights of way for which all abutting properties are located within the plat, and where the city council shall have previously approved a preliminary plat or plan requiring such vacation. Such ordinances need only be approved by a simple majority vote of the council, and no notice and/or advertisement beyond that required of final plats is needed.

(Ord. No. 070265, § 2, 3-15-07)

Sec. 75-9. Deposit and fees for vacation of street or public place.

(a)

~~Whenever any person shall apply for the vacation of any street, alley or public place or plat within the city, he shall procure a written estimate of the cost of publication and all other expenses incident to such vacation, and shall, before the notice of the pendency of such petition is published by the city clerk deposit with the city a sum of money equal to the amount of such estimate, which money shall be kept and paid out as provided in this section.~~

(b)

~~In addition to the deposit required in subsection (a) of this section, a~~ fee in the amount of \$290.00 for the vacation shall be paid to the city at the time of application~~petition~~.

(c)

The city manager shall have the authority to adjust the fees listed above to reflect the change in the consumer price index (all items/all urban consumers/Kansas City, Missouri/Kansas) published by the United States Department of Labor, Bureau of Labor Statistics. The adjustments, if any, shall be made annually by the city manager in conjunction with the adoption of the annual budget of the city by filing a notice with the city clerk.

(Ord. No. 070265, § 2, 3-15-07; Ord. No. 080766, § 1, 8-14-08)

Editor's note—

The fees in this section have been amended at the direction of the city to reflect the fees effective as of April, 2013.

Sec. 75-10. Deposit receipts; disposition of deposit.

~~Upon receiving any deposit required by sections 75-9 or 75-10, the city clerk shall issue duplicate receipts therefore, containing the name of the person depositing the money, the amount thereof, and a description of the property sought to be vacated, one of which receipts shall be delivered to the person making the deposit and one to the director of finance; and the money shall be turned over to the city treasurer, who shall keep a separate account of each deposit and shall place the deposit to the credit of the vacation fund.~~

~~(Ord. No. 070265, § 2, 3-15-07)~~

~~**Sec. 75-11. Payments from vacation fund; return of excess money to depositor.**~~

~~Whenever the city clerk shall certify to the commissioner of accounts the correctness of any bill or item of expense in any vacation proceeding, the director of finance shall draw a warrant for the amount thereof, payable to the person entitled thereto, out of the vacation fund, which warrant shall be paid by the treasurer upon presentation, and the receipted bill shall be kept on file by the city clerk. Upon presentation to the director of finance of a certificate of the city clerk containing a statement of the various expenses incurred in any vacation proceeding, and that all such bills and expenses have been certified by him for payment, the director of finance shall draw a warrant to the person who made the deposit in such proceeding, or to his order, for the amount of money, if any, remaining, which warrant shall be paid in the usual manner provided for the payment of bills.~~

~~(Ord. No. 070265, § 2, 3-15-07)~~

Sec. 75-120. Release of easements; fees.

(a)

The city may release any city easement (other than for a street or public place) by ordinance or by such other procedure provided in this Code of Ordinances. The procedures in this chapter for vacation of streets and public places and plats shall not apply to the release of such easements.

(b)

Any person filing an application for the release of all or part of an easement (other than a street or public place) within the city, shall pay a fee in the amount \$116.00 per easement to the city at the time the application is filed to defray the cost incurred by the city development department for review and processing.

(c)

The city manager shall have the authority to adjust the fees listed above to reflect the change in the consumer price index (all items/all urban consumers/Kansas City, Missouri/Kansas) published by the United States Department of Labor, Bureau of Labor Statistics. The adjustments, if any, shall be made annually by the city manager in conjunction with the adoption of the annual budget of the city by filing a notice with the city clerk.

~~(Ord. No. 070265, § 2, 3-15-07; Ord. No. 080766, § 1, 8-14-08)~~

Editor's note—

The fees in this section have been amended at the direction of the city to reflect the fees effective as of April, 2013.